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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,748	12/05/2001	Lawrence A. Gordon	81688	2561

23685 7590 06/04/2003

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/04/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,748

Applicant(s)

GORDON, LAWRENCE A.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,10-19 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6,10-19 and 24-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lantz ('017).

Claims 15-18 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lantz ('764).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10-14, 19 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grogan in view of Lantz ('017) or Lantz ('764).

Grogan discloses the invention except for the bag integrally bonded to the foamed polymer body. Either Lantz teaches integrally bonding a bag to a foamed polymer body. The bag having a generally uniform width over its length. It would have been obvious to add the integrally bonded bag to the foamed body in order to make the foamed polymer insulation easily separable from the boxes of the invention.

For claim 13, polyethylene and hexene bag materials would have been obvious by design choice.

For claim 14, it would have been obvious to replace the flaps on the inner box with a closure member which fits by plugging the open top end and being removably disposed within the open top end.

For claim 24, it would have been obvious to secure a torn elongated plastic bag to the corrugated fiberboard box in order to prevent the bag from being separated from the box so that the box will always protect the bag from further puncture and the box will always have the polymer foam insulation attached to keep the box thermally insulated. Note that the outer box still remains separable.

Claims 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lantz ('017) or Lantz ('764) in view of Grogan.

Either Lantz discloses the invention except for inner box. Grogan teaches an inner box. It would have been obvious to add an inner box to protect the inside of the bag from being punctured by the contents placed within the shipping container.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grogan in view of Lantz ('017) or Lantz ('764) and Langen.

This rejection is made should it be deemed that the Lantz references do not sufficiently teach the uniform width of the bag.

Grogan discloses the invention except for the bag integrally bonded to the foamed polymer body and the uniform width of the bag. Either Lantz teaches integrally bonding a bag to a foamed polymer body. It would have been obvious to add the integrally bonded bag to the

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foamed body in order to make the foamed polymer insulation easily separable from the boxes of the invention. Langen teaches a bag having uniform width as the edge of the seam extends at the same width over the entire length of the bag as shown in Fig. 15a. It would have been obvious to modify the width to be uniform to save the cost of trimming the seam.

For claim 24, it would have been obvious to secure a torn elongated plastic bag to the corrugated fiberboard box in order to prevent the bag from being separated from the box so that the box will always protect the bag from further puncture and the box will always have the polymer foam insulation attached to keep the box thermally insulated. Note that the outer box still remains separable.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lantz ('017) or Lantz ('764) in view of Grogan and Langen.

This rejection is made should it be deemed that the Lantz references do not sufficiently disclose the uniform width of the bag.

Either Lantz discloses the invention except for inner box and the uniform width of the bag. Grogan teaches an inner box. It would have been obvious to add an inner box to protect the inside of the bag from being punctured by the contents placed within the shipping container. Langen teaches a bag having uniform width as the edge of the seam extends at the same width over the entire length of the bag as shown in Fig. 15a. It would have been obvious to modify the width to be uniform to save the cost of trimming the seam.

Applicant's arguments filed March 26, 2003 have been fully considered but they are not persuasive. Applicant states that the width of the bags disclosed by Lantz ('017) and Lantz ('764) changes dramatically over its length. The width is still considered to be generally uniform

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over the length of the bag. The claims don't specifically state which length of the bag, its entire length, the length of the lower portion of the bag or the length of the upper portion of the bag.

The length of the upper portion of Lantz is constant.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

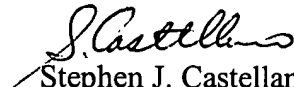
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
May 30, 2003